

The Duty of Witnesses.

A
SERMON,

Preach'd at the

Summer-Assizes

HOLDEN AT

MAIDSTONE in KENT,

Before the Right Honourable

The Lord Chief-Justice *HOLT*,

AND

Mr. Justice *GOULD*,

AUGUST the 5th 1701.

Publish'd at the Request of the High-Sheriff of
that County.

By **GEORGE STANHOPE, D. D.**
Chaplain in Ordinary to His MAJESTY.

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THE
DUTY
OF
WITNESSES.

EXOD. xxiii. Ver. 1. latter part.

--*Put not thine hand with the Wicked,
to be an Unrighteous Witness.*

THE Intention of these Assemblies is never so effectually answer'd, as when Men go from the Courts of the King of Heaven, duly instructed how to behave themselves in those of his Vice-gerent upon Earth. In pursuance of which Design, having formerly, in this place, and upon a like occasion, given such Directions, as seem'd most necessary, to our *Juries*, which by the Constitution of this Kingdom are appointed to determine Controversies, whether Civil or Criminal, so far as concerns Matter of Fact; I think it seasonable, at present, to apply

my self to those Persons, by whose Evidence the Jurors are to govern themselves in such Determinations. To which purpose I have singled out the words now read to you, from among several others, which relate to Judicial Proceedings. Wherein Almighty God, by the Mouth of *Moses*, having first taught the Plaintiff or Accuser His Duty, in the former part of the Verse, *Thou shalt not raise a false report*; proceeds to warn those, by whose Testimony such Accusation or Complaint is to be supported, what will become Them to do, *viz.* That if such *false report be rais'd*, or prefer'd in Court, through Malice, or Covetousness, or any other corrupt Principle, They must by no means abett or strengthen it, nor suffer themselves to countenance or partake in so villanous a practice. For so I understand that Expression of *putting the hand* in my Text; Not of that Ceremony of lifting up or laying the Hand upon the Book of the Law, used in administering of solemn Oaths among the Jews; but rather (as the Phrase is frequently taken) for giving assistance to, or combining with Others, in their Undertakings and Designs. And at such Confederacies and Corrupt Proceedings, more especially, the Command here seems to be level'd; *Put not thine hand with the wicked, to be an unrighteous Witness.*

In order then to leaving this Command, with its due force, upon the Consciences of all, whose Circumstances give them a concern in it; and rendring my Discourse as serviceable as I can, to the regular administration of Justice, I shall say some-

something, as the time will give me leave, upon these following Heads.

- I. *First*, I shall shew you, in what cases a *Witness* is *unrighteous*.
- II. *Secondly*, I shall instance in some of those Temptations, which are apt to prevail upon Men to be so, and shew the unreasonableness of complying with them. And,
- III. *Thirdly*, I shall lay before you, in some measure, the Guilt and Mischiefs of offending in this kind.

I. The first part of my Undertaking is, to shew you in what cases a *Witness* is *unrighteous*. For the explaining whereof, I shall take my measures from the Form of those Oaths, which are commonly administred in the Courts of Judicature concern'd upon these occasions, than which nothing can be more express and full ; *The Evidence that you shall give, shall be the Truth, the whole Truth, and nothing but the Truth.*

Now from hence it is manifest, that every *Witness* is *unrighteous*, who does not answer the Intention of the Law in summoning, and that of the Oath in prescribing to him, what measures ought to be observ'd in his Evidence ; that is to say,

1. *First*, If what he depose be not the *Truth*.
- Or,
2. *Secondly*, If he suppress or conceal any part of

of what he is able to depose, that is, if it be not the *whole Truth*. Or,

3. Thirdly, If he add to what is so; for Witnesses are no more allow'd to exceed, than to diminish; and, as their Testimony must be the *Whole*, so it must be *Nothing but the Truth*.

1. First, A *Witness* is *unrighteous* if that which he shall depose be not the *Truth*.

Neither the Time, nor the copiousness of the Subject, will suffer me upon this occasion to enter into a large and particular Discourse, concerning the Nature of Truth and Falshood in general; the Obligations to, and Advantages of the one, or the Sin and Mischiefs of the other. Nor may I stay to insist upon the many nice Cases and Distinctions, which have exercis'd the perhaps sometimes too subtle Wits of the Learned, with relation to this matter. And therefore, confining my self to the Subject of Publick Testimony, it shall suffice to observe, that here there is a two-fold sort of Truth to be taken notice of; the One is that, by which our Words carry an exact agreement to the things spoken of, and represent them as they are in their own nature: The Other is that, by which our Words agree with our own Sense and Opinion of things, and represent them, as We at that present time do really conceive and are perswaded of them.

Whoever in his Words shall deviate from either of these sorts of Truth, does thereby become guilty of Falshood; but every Falshood, in this sense of the word, is not presently an *unright-*

unrighteous Falshood. For many times we may not be able to come at a perfect and distinct knowledge of things in all their circumstances; and therefore in such cases, where we speak to the best of our Knowledge, though we should happen to be in the wrong, yet this may be the effect of Errour and Mistake, such as the Infirmities of Humane Nature render the holiest and wisest Men liable to. But as oft as we swerve from the *Second* Kind of Truth, that which consists in the agreement of our Words and Thoughts, we are certainly *unrighteous*, as oft as we are *false* Witnesses. For, though we may sometimes be ignorant of the true state of things, yet we cannot possibly be ignorant, what our own Opinion and Belief is concerning those things. So that this sort of Truth, which consists in delivering what we know or believe concerning the matter then in question, and uttering nothing contrary to such Knowledge and Belief, is indispensably requir'd, and what our Consciences are constantly chargeable with: because This is always in our power, and we cannot offend without the will, and a consciousness to our own selves, of doing so. Insomuch that he who speaks what he believes to be true, though in reality it be not so, offends much less against the practical Rules of Truth, than he who speaks that which is really true, when he does not know or think it to be so. I say, he offends *less*; for it is to be observ'd farther upon this occasion, that, when I affirm, that every Man, who speaks falsely in the former kind, does not thereby of necessity speak *unrighteously*;

teously ; my meaning is not, that all who mistake in their Evidence are void of blame : For, as there are some Errours innocent, because involuntary ; So are there others exceeding faulty ; and more or less so, in proportion as there is more or less of the Will in them. He that informs himself as well as he can, and deposes according to the light and information he hath receiv'd, is accountable for no more, because no more was in his power. But he that neglects any means which are proper and possible for a right information ; he that is not diligent to refresh his Memory, and exact in delivering what he remembers ; this Man is accountable for all he attests contrary to the nature of the thing attested to, so far as such Neglect contributed to his Ignorance. And the reason is plain ; because this Man would have known better, had he apply'd himself to consider and understand, as he might and ought to have done. This Errour then is not like the former, Innocent and Involuntary, but Chosen and Affected ; the result of Sloth and Inadvertency in learning, or want of Care and Recollection in delivering the Truth. And so much of Choice or Carelessness as there is in any Errour, so much of Guilt it involves the Person in ; who lies under it himself, and, by propagating his own Mistakes, leads others into them, upon the Credit of his Testimony.

And is it not much to be suspected, is it not manifest indeed, that the Generality of those Falshoods, with which we are at present concern'd, proceed from such failings, as the Men
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who utter them are strictly and in Conscience accountable for ? The Errours opposite to the first sort of Truth, we are principally liable to in matters of Science and Speculation, in dark and difficult points : But those, in which our Courts require Mens Evidence, are not of a subtle and abstruse nature. These Witnesses are not call'd to give their Sense in Questions of Law, which exceed their Comprehension, but in plain matters of Fact, which lye level to the Capacity of every common Man. They are not summon'd to declare the Intentions of the Doer, or those Secrets of the Heart which no humane Eye can discern ; any farther than Overt Acts and Circumstances, visible to every Eye, declare those Intentions to any impartial Observer. And therefore the Qualifications requisite in such Testimonies are not Judgment, and Skill, and deep Learning, which might enable Men to make probable Conjectures in doubtful Cases ; but Honesty, and Fidelity, and unbyass'd Uprightness of Heart, which may give a faithful relation of things that manifestly appear. So that he who is careful to recollect what he knows, and to speak exactly and impartially according to the best of his Knowledge ; he who, besides the corrupt Principles, which I shall have occasion to consider by and by, keeps his Mind untainted by Negligence, and Inconsideration, and Unfincerity ; this Man is so far clear of Unrighteousness, as to discharge the first branch of his Oath, by taking care that

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the Evidence he gives shall be *the Truth*.

2. But then he must be equally careful, in the second place, that he deliver in the *Whole Truth*. I know not how it comes to pass, that Many persons, who make a Conscience of deposing any thing which is not true, do yet think themselves at liberty to conceal as much as they see fit, of that which is true. When yet, to any man who considers at all, it evidently appears, that the End of all Testimony is as perfectly defeated, and the Methods of Justice as much obstructed, by suppressing a part of the Truth, as by affirming a Falshood. For the design of these Examinations being to have a right understanding of the Facts and Matters in issue, and to award accordingly; and the quality of those Facts depending upon a full and entire view, not of One or Two, but of All their Circumstances taken together; where Any of those Circumstances are omitted, the Judgment proceeding thereupon must needs be defective, because it can only proceed upon so much as appears in Evidence. Thus, in an Inquisition of Blood, if that part which would prove a Malice prepense, be soften'd or left out, the Murderer escapes the Sword of Justice; And on the other hand, if that which would shew the Prisoner to have acted in his own defence be suppress'd, an Innocent man falls under the Condemnation of a Murderer. The case is proportionably the same in other, whether Civil or Criminal, Enquiries; and the Sen-

Sentence and Effect of the Law is perverted, though not by the attesting to a Lye, yet by a partial and imperfect attestation to the Truth. And the Awards or Punishments cannot possibly come up to the Merits of the Cause and the Parties concern'd, or the true measures of Right and Wrong ; but are under an absolute necessity of swerving so much from the Rules of Equity, as the Testimony falls short of that point which the Witness might and ought to come up to.

It is most readily granted, that a Man is not, at all times, and upon all occasions, obliged to declare the whole of what he knows ; no, not even when urg'd to it by the Questions of such as are very importunate to discover it. But then this is only a Discretionary freedom, which takes place in Private Conversation, in matters of less and particular importance, in cases where such Concealment is beneficial, and no way prejudicial to the Laws of Humane Society or Christian Charity : In a word, where Prudence advises, and Duty no where opposes, such Silence and Reserve. But the Case of Testimony in Courts of Judicature, is far otherwise. Here the Publick is concern'd, and we are under a stronger and antecedent Engagement ; Nothing can be suppress'd here without great and manifest injury to some Party contending ; nay, without turning those very methods of Law into the worst Disease, which they who are aggriev'd flee to for Re-

medy and Redress; Justice it self suffers, and we ought not, upon that account, to attempt it; nay, we cannot do it, though we would; for, by submitting to the Oath, we have given away all the Liberty we had before; We are then in the hands of the Court, and have made it impossible to speak the *Truth* in the sense of the Law, without speaking the *Whole Truth*.

Whoever therefore, upon these Solemn Examinations, shall wittingly omit any Circumstance material to the point in debate; Whoever shall shuffle or soften the matter, in those Circumstances which he does relate, by expressing those things as Doubtful, of which he is Certain; or, by wicked Equivocations, and studied Reserves, leaving those Dark and Confused, which it is in his power to make Plain and Clear; This Man, though he know all he says be true, yet because he does not say all he knows to be true, prevaricates in his Evidence, and renders himself an *Unrighteous Witness*.

3. The Extreme Opposite to This is provided against by the last Clause of the Oath, which requires, as another qualification of our Evidence, that it be *Nothing but the Truth*. This forbids a Fault in the Excess, as the former was in the Defect; And this is done when Men add any Circumstances, which they have no knowledge of; when they put artful flourishes or exaggerations upon those they have;

have; when they transpose or disguise, or any other way misrepresent the matter in question; when they are positive and peremptory in that which they have only some Jealousie or doubtful Suspicion of; or give undue weight to, and lay a greater stress upon what they are certain in than the thing will naturally bear; by putting false or forced Interpretations upon what they have seen or heard; in short, when by any method contrary to relating the naked Fact honestly and fairly, as they do in truth apprehend it; they blind the Eyes, or impose upon the Judgment, of Them, who are to make this Testimony the Rule and Measure of their Determinations. For, of all the Subjects in the World, none is so improper to exercise our Art and Eloquence upon, none where Rhetorick or Tricking is so absurd, so infinitely mischievous, as Disputes of Right and Wrong, of Guilt and Innocence. The Lives, and Properties, and Reputations of our Brethren, are much too valuable to be sacrificed, too sacred to be tamper'd with at this rate. And no Consideration can be sufficient to prevail with a wise and good man, either to deliver a Falshood, or to suppress or overstrain a Truth: As I shall now proceed to show under my

II. Second Head, wherein I promis'd to lay down some of those Motives, which usually tempt Men to become *Unrighteous Witnesses*; and
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to prove the Unreasonableness of complying with them.

What I have formerly deliver'd from this place concerning those Corruptions in Judgment, which arise from *Respecting Mens Persons*, might excuse any great enlargement upon this Head, *Respect of Persons* including all those Motives, which byasse us in any Cause, and yet are foreign to the real Merits of it. But in regard I then address'd my self in particular to another sort of Persons, I shall not leave the application to be made at discretion to our present case; But, as then I labour'd to prevent Unrighteous Judgment, so shall I now, by discovering some of the wicked roots from whence it is wont to grow, endeavour to prevent *Unrighteous Testimony*.

1. The First I shall mention is Hatred or Revenge. Against the latter, * *Solomon* warns Men, *Be not a Witness against thy Neighbour without cause, and deceive not with thy lips. Say not, I will do so to him, as he hath done to me, I will render the man according to his work.* And of the former, *David* complains in the case of † *Doeg*, who by a malicious misrepresentation of the relief given him by *Abimelech*, brought the Anger of *Saul*, and an undeserv'd Death, upon the High-Priest and his Family. Such Corruptions, it is to be fear'd, are but too

* Prov. xxiv.
28, 29.

† Psal. xxxv.
69.
1 Sam. xxii.

too frequent, among People violently bent against Persons and Parties; Who add or diminish; give a loose to, or put a restraint upon their Tongues; do Wrong, or obstruct Right; where any Prejudice or private Grudge hath prepossess'd them: and abuse the *Civil Sword*, as another sort of Men too often do the *Military*, by drawing it as a Weapon to revenge private Quarrels.

If then we would be free from this Temptation, let us preserve perfect Charity; let us learn to forgive those who have provok'd us, and lay aside all manner of Resentment; let us consider that our business here is to do Right, not to repay Wrong; and let us remember, that to accuse falsely, or to detract from the merits of any man in Judgment, is the very distinguishing Character of the Devil himself; and does, above any other Sin, make us the Children of that *Father of Lyes*, whose constant work it is to slander the Brethren before the Throne of G O D.

2. Another no less dangerous Extreme, which disposes Men to be *Unrighteous Witnesses*, is, *Partial Affection*. Whether this grow from Acquaintance, Neighbourhood, Friendship, Gratitude for Kindnesses formerly receiv'd, Agreement of Opinions or Interests, or whatever else that is apt to create a more than ordinary Love and Liking. Now where such Affection hath taken place, it is too commonly esteem'd a
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matter, Very excusable, shall I say ? Nay, rather lawful and decent, and even a Duty, to manage one's Testimony to such a Person's advantage. This Complaisance, I hope, does but seldom go so far, as the contriving an Evidence entirely false ; But where there is a foundation of Truth at the bottom, how small a Courtesie is it thought, to do That, which in effect comes much to one at last, to abate, I mean, or to throw in a Circumstance, and so to model or set off an Evidence, that the false light we show the matter in, may mitigate the Severity of the Law against a Friend in danger ; or turn the balance of a Cause in favour of his Pretensions ? Now, in bar to all Perswasives of this kind, we must observe, that Courts of Justice are not places for expressing or requiting Personal Obligations ; that no man is allow'd to be particular or civil here, at the expence of Right and Equity ; that we must not be grateful or kind to One, by doing injury to Another ; that in Enquiries of so solemn, so sacred a nature, and so publick importance, as those of Civil and Criminal Causes, No private Engagements ought to have any place ; And that it is a most preposterous Act of Friendship, to deal treacherously with our Great, our Best Friend above, and take the advantage of his most holy Name, to patronize and give credit to a Lye ; to prostitute our own Faith, and sacrifice the Title or Reputation of an Adversary, nay, the Protection of the
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the Law, and all the Security the Subject ought to receive from it, to a false Punctilio of Honour, or our tenderest concern for the dearest Friend alive. Even that Great Friend above hath forbidden us to lye, or to deal deceitfully for Him; He allows us *not to do evil, that good may come*; and, if we may not do it that Good may come, much less may we do it, when all the Good we can propose is attended and debased with so great an allay of Evil, that (as I shall shew presently) the Benefit is in no degree comparable to the Harm and Mischief consequent upon the *Unrighteousness* of a *Witness* in this particular.

3. A *Third* Temptation, especially in Capital Cases, is Compassion, and Tenderness in shedding the Blood of even an Offender.

God forbid, that any Christian Preacher should make it his business to take off from that Mercy and Good-nature to all Mankind, which is the Glory of Our Religion above any other Institution, that is or ever was in the World: But sure we may have leave, nay, we ought indeed to expostulate a little upon this occasion with these pretendingly good-natur'd Men. For is there no Compassion due then to the Innocent and the Injur'd? And can there be a more mistaken Tenderness, than that which extends it self to the Guilty only, but hath no Bowels for the Honest Sufferers, No consideration of the common Safety, No remorse for the

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the Boldness given to rampant and triumphant Villany; by the Impunity of Malefactors ? Is This indeed a mark of Good-nature, to assist Injustice in eluding and outbraving the Laws ; and to choose those for its Objects, who have not only deserv'd to dye, but who cannot live without the Sin and Reproach of those who save them, and the extreme hazard of better Men ? Such Mercy is the greatest Barbarity, or (to say the gentlest thing it can possibly bear) the most inconsiderate, most dangerous, most misplac'd Pity, that any easie good man can, and such as no wise good man will ever, suffer himself to be led away with. If then we will be merciful, let us be so to them whom the Laws, and all good Men, find worthy their Protection ; Let us help Them to Right that suffer Wrong ; or, at least, let us take the best care we can, that they who have done the Wrong may smart for it, and be made such a Terrour to others, that it be done no more. For what we conceal in such cases, we become accessory to ; And therefore, if no regard to the Good, and to the Publick, will overweigh this foolish Pity to them who have render'd their condition unfit for it, let us at least take care how we be cruel to our selves, and run the risque of an Eternal, to preserve such wretches from a Temporal Punishment.

4. *Fourthly,*

4. *Fourthly*, The Last and most prevailing Temptation to this Sin is Interest. Under which I comprehend Ambition and Covetousness, Fear of displeasing powerful Friends, or of creating dangerous Enemies. Any thing, in a word, by which the Men wise for this World hope to raise or to secure their Fortunes. When greedy Desires, and prostituted Consciences, form such Conspiracies, as Solomon describes, (*Prov. i. 11, 13. Come, and let us lay wait for blood; let us lurk privily for the Innocent without cause, We shall find all precious substance, we shall fill our houses with spoil.* When Mens Possessions become their Crime, and the Great ones of this World (who, by an Insolence too usual, count themselves serv'd but by halves, if the very Souls of their Dependents be not at their devotion) take up * *Jezebel's Stratagem*, and must have *Naboth's Life*, in order to seize his Vineyard: When these Sons of *Belial* with their mercenary Oaths assist the Avarice and Oppression of such Patrons; and are ready to murder at the Word of command: When, to serve a Faction, profligate wretches are provided to alledge any thing, though never so false, never so foreign, like † those Witnesses against the Blessed Jesus, so industriously sought, so impudently receiv'd, by the Chief Priests and Elders: In these Circumstances men, too many, are to be met with, who make no scruple of putting their hand with the Wicked, to be Un-
C 2 righteous

* 1 Kings xxi.

† Matt. xxvi.
Mark xiv.

righteous Witnesses; without any regard to GOD, or Truth, or Honesty, or Justice: An End is to be serv'd, and be that never so wicked, the World is bad enough to furnish fit Instruments for it. Though, God knows, they seldom find the account they propose, and it is certain they never can propose any, which can be a sufficient compensation for their Villany. For he that cannot lye hath frequently and solemnly declar'd, that *False Witnesses shall not go unpunished*, that they shall assuredly perish, that *He will not hold him guiltless*, that is, that man shall be severely reckon'd with, and pursued by inexorable Vengeance, who *takes his Name in vain*. And, What will riches or gain profit him, who by being brib'd, into Falshood, or out of Truth, hath insur'd this Curse as a *Premio* to himself? Where was the advantage of *Jezebel's* Favour to those suborn'd wretches, who depos'd according to her dictate and direction, when She her self became a Prey to Dogs so very quickly after? And if other Suborners meet not the same fate, yet is their Favour of as little duration as it is of worth. Men naturally soon begin to hate and scorn the mercenary Instruments of their own Wickedness: They grow sick of Them, who are conscious to it, and the very sight of whom reproaches their Baseness, and awakens the Terrors of their own Consciences. But if such corrupt Creatures are Agents for themselves, yet what is the result of those Combinations mention'd

tion'd just now from *Solomon* ? Carry but your Eyes a few Verses farther, and you shall see the miserable Conclusion of all their boasted Prospects and golden Joys ; * *My Son, walk not thou* ^{* Verſ. 15, 18,}
in the way with them, (i. e. with Sinners, that ^{19.}
would entice thee to such practices) *refrain thy foot from their path ; For they lay wait for their own blood, they lurk privily for their own lives ; So are the ways of every one that is greedy of gain, which taketh away the life of the owners thereof.* So exceeding deceitful are all the mighty advantages which vain men promise themselves upon these occasions ; so far from answering the large expectations they once fondly cherish'd from them, so full of bitterness and misery in the end. And therefore Every Man, who is call'd to give publick Testimony, should in the first place settle it in his Heart, to abandon all private respects whatsoever, to fear the Person of no Man, though never so mighty, to make High and Low, Rich and Poor, as indeed they are in these respects, Equal ; To regard nothing but Truth and the Merits of the Cause ; and come fully perswaded, that the God, whose Name he bears just reverence to, will be a more bountiful Rewarder, and a more sure Protection against any *Odium* his Integrity can possibly draw upon him ; and the approbation of his own Conscience a more valuable Consideration, a more solid Comfort, a more faithful Friend, than all the Countenance and Careſſes of the Ungodly, than any
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the most alluring Wages of Iniquity, can ever prove to him.

Thus have I discharg'd my Promise for the *Second Head*, in setting before you some of the Principal Temptations to *Unrighteous Testimony*; and withal the unreasonableness of complying with them. The latter part of which Argument hath, I find, in some measure anticipated what would have caus'd me to enlarge upon my

III. *Third Head*; (and therefore I shall be more brief in that) which you remember is design'd to represent the Horrible Guilt and Mischief of offending in this kind.

So horrible indeed are These, of such a fatal influence, and so vast extent, that I know not, whether it be in the power of Words fully to describe them. No Colours are black enough to paint these Monsters of Villany, or come up to the life of all those dire effects, which the baleful venom of false Tongues sheds Upon the Parties concern'd, the Body Politick, or their own guilty Selves. But though it be hard, perhaps impossible, to trace this Poyson through all its dismal Consequences, and tell the whole process of what we feel from it; yet is the Evil too sensible and too manifest, not to furnish us with matter sufficient to deter Men from such exorbitant Wickedness; At least if they have any humanity left for their Brethren whose Cause is
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in issue, Any regard for the Benefits of Society in general, Or any tenderness for their own Souls: And a very few words will suffice to shew, how deeply Each of these are injur'd, by a Man's *putting his hand with the Wicked, to be an Unrighteous Witness.*

1. *First*, The Persons concern'd in the Issue of the Cause are very evidently very grievously injur'd: And of what nature or consequence soever this Injury be, (supposing the Judges to act uprightly) the whole devolves at last upon, and is owing to the Corruption of the Evidence. The Use and Necessity of Witnesses proceeds from hence, That matters of Fact are necessary to be known, and yet not possible to be known in a Legal way, otherwise than by the Depositions of Persons, who were conscious to, and are call'd to testify concerning, them. And this I term the only *Legal Knowledge*, because whatever light into the Cause the Tryers of it may have, by any *private* or personal knowledge of their own, yet in their *publick* Capacity, and as Jurors, they are bound (as I have urg'd more largely heretofore) to proceed upon such Notices only; as result from the Proofs produced upon the Tryal. So that the Witnesses are our last resort, where the whole matter rests; the main Springs, upon which the Event of every Controversie turns. And consequently These are chargeable with the Mischiefs and Injustice of all those undue Determinations

nations, which arise from want of a just information of the true state of the Case.

Now, that in Disputes of Right, and Causes between Party and Party, no false witness can possibly be born, but it must of necessity be *against* (that is, to the prejudice of) *our Neighbour*, and so a direct breach of the very Letter of the Ninth Commandment, is too obvious to need a proof. And therefore so much damage as is sustain'd by the Party cast in Suit, so much wrong is done him by that Witness, whose Unrighteous Depositions gave the Adversary an Advantage, above what in Equity belong'd to him.

The Injury is equally plain, and generally of much worse consequence, in Criminal Causes, where the Witness deposes corruptly *against a Prisoner standing upon his Deliverance*. Bringing mens lives into danger, and branding them with marks of publick Infamy without cause, are acts of horror, which, did not too sad Experience demonstrate the most unblemish'd Innocence not always to be sufficient protection against them, one would hardly suspect humane nature (frail and depraved though it be) to be capable of so much Devilishness. For, as of all Slanders none is comparable to that fix'd in form of Law, so is no Murder so barbarous as his, who is murder'd by the hand of Justice. Robbers and Assassines kill the Body only, and after that have no more that they can do; but He, who slays by false accusation, kills our Honour too, and pro-

propagates his Malice to whole Families and Generations yet to come. He taints our very Ashes, and makes them of a poysonous quality, like those once scatter'd by *Moses*, which broke forth into Boyls and Blains. He stains our Blood, and conveys an indelible Reproach upon our Friends and Relations, upon all that derive from, or are dear to us. In Civil Disputes some amends may be made for the wrongs done by a corrupt Evidence; but, Is there any restitution for those in Criminal Causes? Can such a one raise the Innocent from the dead, or gather up again the Blood he spills? Nay, if that Innocence escape the Sentence of the Law, yet can the Ignominy of its being causelessly brought in question be clean wiped off? Can any man stanch a bleeding reputation, or heal the wounds which the Sword of lying Lips hath open'd? No certainly; Envy and Malice, which are always ready even without a fair pretence, to think and speak the worst of others, will never fail to take the advantage of so publick, so solemn an Imputation. And if Calumnies of Any kind stick so fast, formal Accusations are what we can very hardly hope to wash away. So that These are Injuries capable of no entire Reparation, and the Sufferer by them will never be clear'd to all the World, till that day come, when all the World shall meet in Judgment; And *what shall then be given or done to Thee, O thou false Tongue? even mighty and sharp Arrows, with hot burning Coals.*

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But I must add once more, that even the Evidence *for* the Prisoner is *unrighteous* and injurious too, when it in any degree exceeds the bounds of Truth. For there is Justice due to the *Accuser*, which no pretence of Mercy for the *Accused* will absolve us from. We draw upon our selves the guilt which we protect; and are in some sense Murderers and Robbers, when we assist them that are so, and hinder the expiation of that Blood and Rapine which is directed to be made by *Theirs*. We in effect impeach the Prosecutor of a false and vexatious Charge; and, by endeavouring to cover the Shame of the Malefactor, add one Affliction to another, by *persecuting them whom he hath smitten*, and *vexing them whom he hath wounded*. We rob an injur'd man of that redress and satisfaction, which the Laws have given him a right to, and disturb the course of those Administrations, which cannot preserve the Good, when disarm'd of their Terrours, and obstructed in the exemplary punishment of the Evil. And thus the Mischief spreads far and wide; it becomes of general concern, and stops not at the persons contending in Judgment, but reaches You, and Me, and every Member of the Body Politick; For that is my

2. Second Consideration to deter Men from *Unrighteous Testimony*, *The harm it does to the Publick*.

I might urge upon this occasion the provocation such men give to Almighty God to revenge their Falshood in National Calamities; It being obser-

observable, that, generally in Scripture, where the Sins, which quicken the destruction of a People, are particularly recited, those of *false Oaths* and *perverting of Judgment* stand in the foremost rank of that black Catalogue. But that which I rather chuse to say at present, shall be taken from the reason of the thing, and it is this. The design of uniting into Societies, and the great Benefit of Government, is to preserve the Safety of each Member incorporated into this common Body : This is secur'd by providing and submitting to such Laws, as prescribe the measures of our Respective Rights and Properties, and inflict such Penalties upon those who invade them, as may be most effectual for the procuring us a convenient restitution of the past, and preventing any future wrongs, by which Men encroach upon one another. But These wrongs cannot be redress'd or punish'd, without being known ; And the Facts themselves are of such a nature, that they are not capable of being known, except by the Testimony of Others. These Laws suppose a great depravation in humane Nature, such as may be apt to byass and make Men partial in their own Case, and therefore they require Witnesses liable to no such Temptation. They consider too, of what weight these Testimonies are, and hence they accept none without an Oath, that so by invoking the Great and Holy God, as a Witness to the Truth of what they say, and a mighty Revenger of wilful Falshood if it be otherwise, there might be such an awe upon their Consciences, as

will not suffer them to prevaricate, upon any Worldly Considerations whatsoever. Again, Because it is not impossible, that there may be now and then found a Wretch so profligate, as to break through these most Solemn Engagements ; hence it is, that usually *Two Witnesses* are requir'd ; It being yet less probable that Two should be thus abandon'd than One ; Or, if they be, yet they will be more easily detected in their Fraud, by cross examining, comparing and confronting their Evidence, and observing the Agreement and Disagreement between them. Thus the Condition of our most important affairs in this life admits of no greater Security, than a Moral Certainty ; No more can be had for our Liberties, our Honours, our Estates, our Lives. This Certainty again is grounded upon a Presumption, that Men under so sacred Engagements to Truth will not dare to testify falsely. Upon that single Hinge all Distributive Justice turns ; And therefore They who abuse this Presumption, and violate so manifold a Tye upon their Consciences, are the last, the most profligate, the most pernicious of all Mankind ; They are not to be look'd upon in the quality of Villains injurious to Private persons, but to be abhorr'd as Common Enemies ; for they strike at the Root of all Law, and all Justice ; and, as much as in them lies, undermine the only Foundation upon which Society and Government can stand. And if these Monsters should be suffer'd to multiply among us, it would even be high time to disband and return to Dens and De-

Defarts again: For, upon these terms, Mankind might much more safely converse with Wolves and Tygers; and it would move less indignation to be devour'd by Beasts of Prey, than to be thus worry'd and torn in pieces, by the Bloody, the Mercenary mouths of one another.

3. The Last thing I propos'd to alledge for terrifying Men from *Unrighteous Witnessing*, is the Guilt and Mischief drawn down by it upon the Offenders own Heads. I know not well what Success can fairly be expected from an Argument of this kind, upon Wretches who have so far abandon'd all Sense of GOD and Religion, as to prostitute their own Faith, and the Name of the Most High, to Corruption and Deceit. But whether such will hear, or whether they will forbear, it is My Duty to warn them, that False Witnesses contract a Guilt, as complicated as the Injuries done by them; They openly and impudently violate the *Third* Commandment, by the profanation of their Oath; They offend against the *Fifth* by imposing upon the Magistracy, and defeating the great purposes of Government; They become obnoxious to the *Sixth*, if this Prevarication proceed from Malice; to the *Eighth*, if tempted to it by unjust Gain; to All those, in a word, which the Crime they abet is liable to; for by abetting it, they have made it their own. And I must add, that their Allegations for the Prisoner, when unjust, are exceeding criminal before God, perhaps not less than if taken upon Oath. For, though for Civil Reasons, Men
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in most Criminal Causes are not permitted to swear against the King, and what they say for the Malefactor will not amount to Legal Perjury, yet I make no doubt but God will account most severely with Those, who take this advantage of checking or diverting the course of Justice; and He expects, that no man should make a solemn declaration in open Court, of any thing which he would not readily, and might not most safely, bind upon his Conscience with an Oath.

And if This be the Condition of *Unrighteous Witnesses*, what Repentance can be sufficient for so barbarous, so mischievous, so irreparable, so manifold an Injustice? What Reproach, what Torments, are reserv'd for them who commit it, and do not repent? Surely if there be Any Creature more justly to be abhorr'd than other in This World; if Any, whose Furnace is heated seven times hotter than the rest in the next World; that Hatred and Vengeance of GOD and Man must be suppos'd in reason, to be pour'd out with least relenting, upon those profligate vile People, who set themselves to turn *Judgment into Wormwood*, evacuate the End of all Laws, tear up the Foundations of Civil Society, renounce (nay, even defie) God, and dare His angry Justice, by making (by implication at least) their speaking the Truth a Condition of receiving help from *Him* and *his blessed Gospel*, and in the same breath uttering a known Falshood. These things are dreadful barely but to mention, but the practice of them is most amazingly impious

pious and base ; and yet such, and no better, is the case of every man, who, for any Respect or any Sollicitation whatsoever, shall (as I have explain'd the words) presume to *put his hand with the Wicked, to be an Unrighteous Witness.*

I once hoped to have found room for some Inferences, easie and seasonable enough to have been drawn from the foregoing Discourse. And particularly those of shewing, how Just, how Christian, how Charitable an Office that of bearing righteous Testimony is ; How reasonable, that Men should voluntarily offer themselves, where Right or Innocence is to be vindicated, or where Wrong is to be punish'd ; where the Good of others, the common Safety, or the Honour of GOD and Religion, are manifestly concern'd : And how fit it is, that the Laws should compel those who can, but are not willing to give Evidence : This ought not to be thought a hardship, since the danger and guilt of *false witnessing* is in every man's power to avoid, and the *Odium* of bearing *true witness* is what every man ought to despise. But of This, and some Other matters, at first in my Thoughts, the Time will not suffer me to treat ; And therefore I conclude all with my most hearty Prayers to God, that He would so assist and direct Your *Lordships*, the *Gentlemen of the Grand Inquest*, and every Person concern'd in Trying or in Testifying upon this occasion ; that the Blessing once promis'd to *Israel* may this day be Ours ; Even, that

that Judgment may run down as Waters, and
 Righteousness as a mighty Stream. For happy are
 those who are in such a case, and blessed are
 the instruments that contribute to it. Which
 that we may All do in our respective Capacities,

Grant, we beseech thee, Almighty God, that the
 Words which we have this day heard with
 our outward Ears, may by thy Grace be so
 grafted inwardly in our Hearts, that they
 may bring forth in us the fruit of good li-
 ving, to the honour and glory of thy Name,
 through Jesus Christ our Lord. Amen.

F I N I S.

